

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
Honolulu, Hawaii 96813

November 19, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Issuance of a Revocable Permit to Showcase Hawaii, LLC., a Hawaii Limited Liability Company for a museum gift shop, production, and related retail and office uses at the No. 1 Capitol District (formerly the Hemmeter Building), Honolulu, Oahu, Tax Map Key: (1) 2-1-17-001.

APPLICANT:

Showcase Hawaii, LLC., 250 South Hotel Street, Honolulu, Hawaii 96813, as Permittee or tenant.

CONTROLLING AGENCY AND LEGAL REFERENCE:

DAGS is the lessee under a Chapter 37D, Hawaii Revised Statutes (HRS) financing agreement, which was used to initially purchase the building around December 2000. Funds for the purchase were raised through the issuance of certificates of participation (COPs). The COPs were refinanced earlier this month, but did not change the remaining term of agreement. When all lease payments are made over the remaining 11 years, title to the property will be transferred to the Board of Land and Natural Resources (BLNR). The BLNR will then be asked to recommend to the Governor, the set aside of the property to DAGS.

Under Chapter 26-6, HRS, DAGS has the authority to operate and manage public buildings. The Friends of the Hawaii State Art Museum (Friends of HISAM) was established as a nonprofit group pursuant to Chapter 9-23, HRS, to work effectively with DAGS, the State Foundation on Culture and the Arts (Foundation) to enhance and support the work of the Hawaii State art museum, its ancillary programs, and amenities. The statute allows the Friends of HISAM to operate concessions or other for-profit business enterprises within or on the grounds of the state art museum as directed by the Foundation, or to enter into contracts as approved by and with the Foundation, for the operation of such enterprises. Funds generated by the Friends of HISAM shall be used as supplemental funds that may be expended for the following purposes:

1. Employing personnel as required to operate and maintain the museum and ancillary programs for education, cultural, and promotional purposes;

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2. Planning and development of state art museum programs;
3. Construction, repairs, replacements, additions, and extensions of state art museum facilities;
4. Operational and maintenance costs of the state art museum and ancillary programs and amenities;
5. Administrative costs of the state art museum; and
6. Doing other things necessary to accomplish the purposes of this chapter, including the adoption, amending, or repeal of rules pursuant to chapter 91.

ZONING:

State Land Use District: Urban and located in the Capitol
Special Design District
City & County of Honolulu
CZO: BNX-4 (Central Business mixed use)

TRUST LAND STATUS:

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES NO X

CURRENT USE STATUS:

Various state agencies currently occupy the building's leasable space, including the State Foundation on Culture and the Arts (SFCA), which is administratively attached to DAGS. The Hawaii State Art Museum (HISAM) occupies a major portion of the second floor and is run and operated by SFCA. The café (Downtown at the HISAM) operates on the ground floor and is located adjacent to the gift shop. A sublease for the café was previously approved by the Board of Land and Natural Resources at its meeting held on February 9, 2007.

LOCATION AND AREA:

Premises located on a portion of the ground floor of the No. 1 Capitol District, comprising approximately 660 square feet, together with a 42 square foot path to the entry, and a 160 square foot storage room, at 250 South Hotel Street, Honolulu, Hawaii 96813, (See Exhibit A)

TERM:

Month-to-month for up to one (1) year, and continuing on a month-to-month basis for additional one (1) year periods, subject to the approval by the Board of Land and Natural Resources.

RENT AMOUNT:

The proposed monthly rent is \$2.75 per square foot for the gift shop space (\$1,815.00), plus \$.75 per square foot for the storage space (\$120), or a total of \$1,935 per month. The Friends of HISAM will be responsible for all related utility costs for the gift shop.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

The controlling agency shall be responsible for ensuring compliance with Chapter 343, HRS.

REMARKS:

Both the Department of Accounting and General Services (DAGS) and the Friends of the Hawaii State Art Museum (Friends of HISAM) will be designated as Permittees (landlords).

The Revocable Permit with Showcase Hawaii, LLC, will be subject to the terms and conditions of the Lease Purchase Agreement, which is the financing lease that the State entered into to acquire the property. If there are any conflicts between this Revocable Permit and the Lease Purchase Agreement, the terms of the Lease Purchase Agreement shall prevail.

Under the lease financing arrangement using certificates of participation (COP) investors receive exemptions from federal income tax. This exemption can be jeopardized should the State permit an excessive amount of non-government use in the building. DAGS has reviewed this proposed leasing arrangement with the Department of Budget & Finance's General Advice Counsel for compliance and to maintain tax benefits for the investors.

RECOMMENDATION:

That the Board consent to the Revocable Permit by DAGS and the Friends of HISAM, and Showcase Hawaii, LLC, as Permittee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following:

1. Review and approval by the Department of the Attorney General as to form for the Revocable Permit;

2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Russ K. Saito,
State Comptroller

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

Richards Street

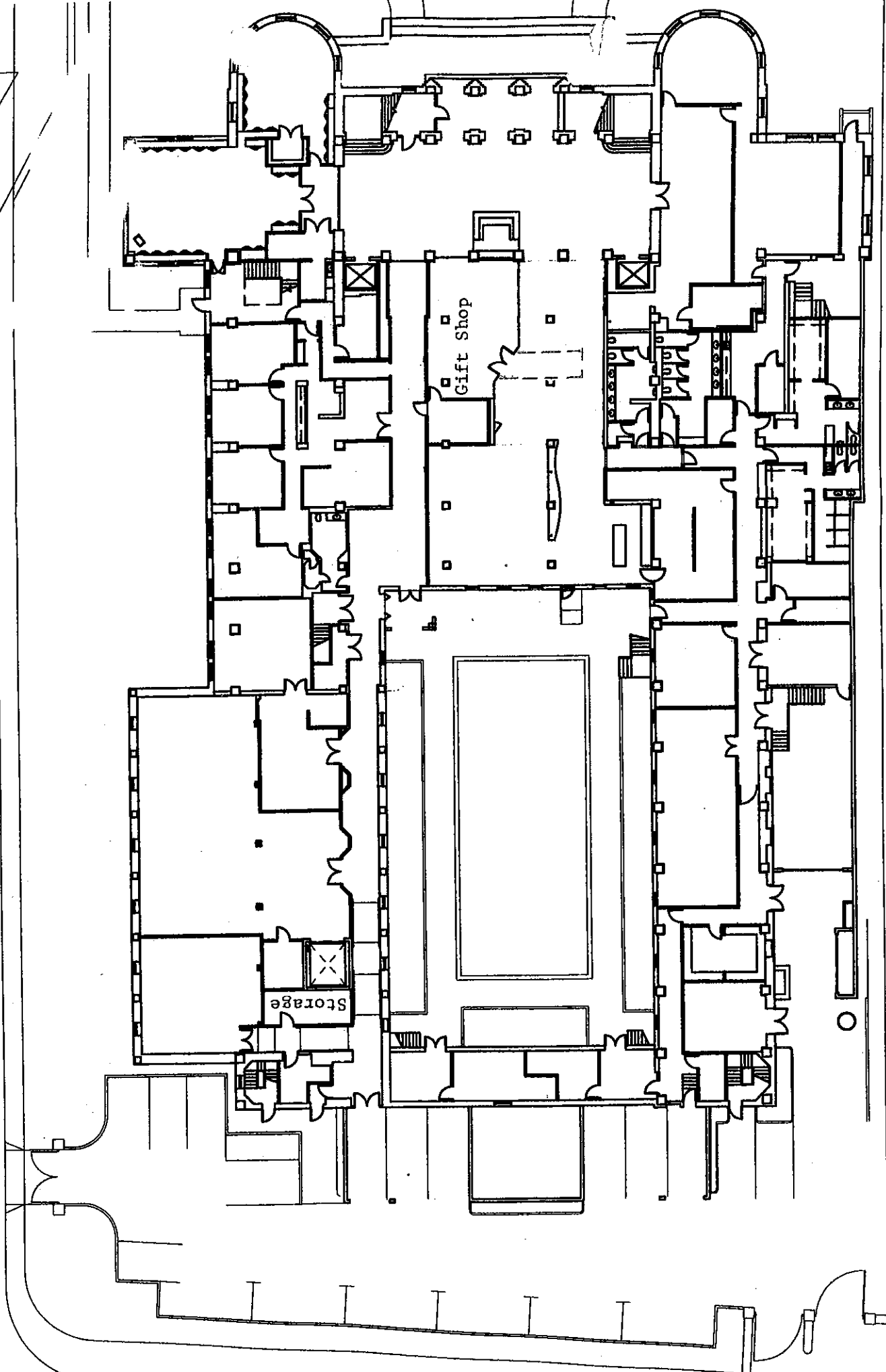


EXHIBIT A